



Faculty Senate

The Faculty Senate will meet on Friday, January 11, 2019, at 2:10pm
in the State Room (1957 E Street NW).

AGENDA

1. Call to order
2. Approval of the minutes of the meeting held on December 7, 2018
3. REPORT: Annual Report on Research (Bob Miller, Vice President for Research)
4. RESOLUTION 19/3: To Amend the *Faculty Code* (2) (Jeff Gutman, Chair, Professional Ethics & Academic Freedom Committee)
5. RESOLUTION 19/4: To Amend the *Faculty Code* (3) (Jeff Gutman, Chair, Professional Ethics & Academic Freedom Committee)
6. RESOLUTION 19/5: To Amend the *Faculty Code* (4) (Jeff Gutman, Chair, Professional Ethics & Academic Freedom Committee)
7. Introduction of Resolutions
8. GENERAL BUSINESS
 - a) Nominations for election of new members to Senate standing committees
 - b) Reports of Standing Committees
 - i) PEAFF Interim Report
 - c) Report of the Executive Committee: Professor Sylvia Marotta-Walters, Chair
 - d) Provost's Remarks
 - e) Chair's Remarks
9. Brief Statements and Questions
10. Adjournment

Elizabeth A. Amundson
Secretary



A RESOLUTION TO AMEND THE *FACULTY CODE* (2) (19/3)

WHEREAS, A pending disciplinary review for a serious violation of a university policy may adversely affect a tenure candidate's request for tenure and such effect would be unfair if the candidate is ultimately cleared of the disciplinary charge. Article IV.A.3.1 should be amended to permit the Provost, with the candidate's consent, to extend the probationary period or to suspend an ongoing tenure review until the disciplinary process is complete.

WHEREAS, Findings of violations of university policy during a candidate's review may be a basis for a concurrence or non-concurrence; such findings should not be given retroactive effect, but may be considered in a future stage of the review process.

WHEREAS, The President's review of the Provost should incorporate the views of the university's constituents and involve an established process and timetable.

NOW, THEREFORE,

BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY:

1. Article IV.A.3.1(b) should be amended to add:

5): The Provost, upon written notice to the candidate for tenure and with the candidate's consent, may extend the probationary period beyond the period set forth in paragraph c) below, or suspend an ongoing tenure review, pending the outcome of a university review of allegations of a serious violation of university policies (such as those on sexual and gender-based harassment and interpersonal violence, non-discrimination, prohibited relationships with students, research integrity, conflict of interest, misuse of university assets, and threats or acts of violence), of allegations of serious misconduct, or of criminal charges raised against a faculty member.

2. Article IV.E.1 should be amended to add:

iv.: A documented finding of a serious violation of university policies (such as those on sexual and gender-based harassment and interpersonal violence, non-discrimination, prohibited relationships with students, research integrity, conflict of interest, misuse of university assets, and threats or acts of violence), serious misconduct, or criminal violation. Such findings shall not be a basis to reconsider recommendations made at earlier stages of the review process, but rather will be considered at subsequent stages.

Proposed Changes to the Procedures for the Implementation of the Faculty Code

3. Section C.3 should be amended by adding the following after the existing text:

Continuance. The President shall meet with Provost annually to discuss the Provost's past performance and future goals. The President shall also periodically initiate a comprehensive review of the Provost that systematically solicits input from the university's constituents, including but not limited to faculty, vice presidents, vice provosts, Deans, trustees, alumni, and students. A comprehensive review shall include the following steps:

- 1. The President shall discuss with the Provost, at the time of the Provost's appointment or reappointment, the criteria by which the President will review the Provost.*
- 2. The comprehensive review shall occur at least every three years.*
- 3. The process for comprehensive review shall be established by the President.*
- 4. The President shall provide to the Faculty Senate Executive Committee a summary of the general conclusion of the review with respect to the established criteria of the Provost's performance. The details of the final evaluation shall be conveyed only to the Provost, and the Board of Trustees.*

Faculty Senate Committee on Professional Ethics and Academic Freedom
January 11, 2019



A RESOLUTION TO AMEND THE *FACULTY CODE* (3) (19/4)

WHEREAS, There is currently no explicit mention in the *Faculty Code* regarding the criteria and procedures for the appointment, reappointment and promotion of specialized faculty. Article IV.A.6 should be amended so that schools and departments adopt criteria for the appointment and reappointment of specialized faculty, and those criteria should ensure that their reappointment and/or promotion is consistent with the terms of their appointment or reappointment letters.

WHEREAS, The first sentence of Article IV.C identifies GW as a preeminent research university. To ensure GW's continued preeminence, the standard for excellence in scholarship for candidates for tenure should be clarified by stating that tenure is reserved for faculty members whose scholarly accomplishments are considered excellent when compared with successful candidates at similar stages of their careers in institutions of higher education that have preeminent programs in the particular candidate's field or program.

WHEREAS, Under Article IV.D.4, a professor may be recused from voting as a member of the School-Wide Personnel Committee on a candidate's application for tenure or promotion, but that professor may have valuable information regarding the candidate's scholarship and other accomplishments. The SWPC should be permitted to obtain that information through the department in the normal course, i.e., through the professor's participation in the departmental review process to develop a full record of understanding the candidate without compromising the reason for recusal.

WHEREAS, Part B.1. of the *Procedures for the Implementation of the Faculty Code* (Code Procedures) currently requires that faculty of each school create a committee to make recommendations to the Dean on the allocation of regular tenure-track appointments within the school. Those recommendations may serve as a source of important guidance to the Dean. Concern has been expressed that some of those recommendations may have been ignored because the Dean did not respond to them. Part B.1. of the Code Procedures should be amended to require the Dean to report back on the allocation of tenure-track appointments.

WHEREAS, Part C.2.b.i of the Code Procedures should be amended to provide a modest degree of flexibility in the rule that currently states that only tenured full professors may chair Dean's search committees, and to clarify that the search committee and Provost should establish procedures for the selection of the Dean consistent with rules of the school.

WHEREAS, Part D.4 of the Code Procedures should be amended to provide the College of Professional Studies with additional flexibility in designating its degrees while (1) retaining the requirement that the College may not issue degrees that duplicate or utilize the same names as degrees issued by other schools in the University, and (2) requiring transcripts relating to degrees and certificates conferred by the University to students in the College to identify the College as the unit in which those students were enrolled, and diplomas for students in the College to be signed by the College's Dean.

WHEREAS, Part E.7 of the Code Procedures should be amended to provide that if the Provost, when reviewing a grievance decision, finds that relevant information was not obtained by the Hearing Committee or by the Dispute Resolution Committee, the Provost should provide that information to the relevant Committee and request that Committee to reconsider its decision within 45 days. When the Provost determines that a final decision by a Hearing Committee or the Dispute Resolution Committee (following any such reconsideration) should not be implemented for compelling reasons, the Provost should provide his or her determination (including a statement of such compelling reasons) to the President, and the President, rather than the Board of Trustees, should issue the final decision on the grievance.

NOW, THEREFORE,

BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY:

1. Article IV.A.6 should be amended by adding the language in italics and deleting the text lined out as follows:

6. Criteria and Procedures for Appointments, Reappointments, and Promotion of Regular *and Specialized* Faculty Serving in Non-Tenure-Track Appointments

Each school and each department (except in the case of non-departmentalized schools) shall take the following actions with regard to appointments, reappointments, and promotion of regular *and specialized* faculty serving in non-tenure-track appointments:

a) In accordance with ~~this~~ Article IV and Part B of the Procedures for the Implementation of the Faculty Code, the faculty of each of the foregoing units shall approve and publish the criteria to be applied in making decisions regarding appointments, reappointments, and promotion of regular *and specialized* faculty serving in nontenure-track appointments. These criteria shall be based on the purpose(s) of the non-tenure-track appointments. Each letter of appointment *or reappointment* for a regular *or specialized* faculty member serving in a non-tenure-track appointment shall include appropriate references to the criteria, *weighting of criteria*, and *the purpose(s), of applicable to such appointment.*

b) Decisions regarding appointments, reappointments, and promotion of regular *and specialized* faculty for non-tenure-track positions ~~at a rank lower than the rank of professor~~ *may shall* be based on published criteria *which may* ~~that~~ assign different weights to the factors of teaching ~~ability, productive~~ scholarship, and/or service to the University, professional societies and the public than the published criteria that would be applied to faculty members serving in tenure-track appointments in the applicable department or non-departmentalized school; provided, however, that

1) none of the foregoing factors *as applied to the review of regular faculty* shall be assigned a weight of zero, and each regular faculty member serving in a non-tenure-track position shall be expected to generate evidence of *meeting applicable university, school, and department criteria* for teaching, ~~ability and productive~~ scholarship *and service*; and

2) *such decisions shall be consistent with the terms set forth in the candidate's appointment or reappointment letter.* ~~The weights to be applied to the foregoing factors shall be based on the purpose(s) of the particular non-tenure-track appointments, and such weights shall be explicitly stated in the applicable letters of appointment or reappointment; and~~

~~e) Decisions regarding appointments, re-appointments, and promotion of regular and specialized faculty for non-tenure-track positions at the rank of professor shall be based on published criteria that are substantially comparable (though not necessarily identical) to the published criteria that would be applied to faculty members serving in tenure-track appointments in the applicable department or non-departmentalized school.~~

c) ~~d)~~ Teaching loads and service assignments for all regular faculty in a department or non-departmentalized school should be structured so that during the term of each appointment, consistent with the University's needs, each regular faculty member in that department or school has a reasonable opportunity to generate evidence of *meeting applicable university, school, and department criteria* for teaching, ~~ability and productive~~ scholarship, *and service*.

2. Article IV.C should be amended by adding the text in italics and deleting the text lined out:

Recognizing the significance of the university's commitment when it grants tenure, including to the university's standing as a preeminent research university, tenure is reserved for members of the faculty who demonstrate excellence in scholarship, teaching, and engagement in service and who show promise of continued excellence. Excellence in teaching and engagement in service are prerequisites for tenure, but they are not in themselves sufficient grounds for tenure. Tenure is reserved for faculty members whose scholarly accomplishments are *considered excellent when compared with distinguished in*

~~their fields, and a candidate's record must compare favorably with that of successful candidates in at similar stages in of their careers at institutions of higher education that have preeminent programs peer research universities in the particular candidate's field or program.~~ Upon a specific showing that the academic needs of the ~~University~~ *university* have changed with respect to a particular position, that factor may also be considered in determining whether tenure shall be granted. The granting of tenure is generally accompanied by promotion to associate professor.

3. Article IV.D.4 should be amended by adding the text in italics:

The School-Wide Personnel Committee may request and gather additional information, documentation, or clarification regarding recommendations they are considering. Recommendations shall be determined by committee members holding equal or higher rank relative to the considered action. Schools shall develop rules for recusal involving potential conflicts of interest for committee members, such as membership in the same department as the candidate. *Members of the Committee who are recused because of membership in the same department may participate in providing information about the candidate to the School-Wide Personnel Committee through their department.*

Proposed Changes to the Procedures for the Implementation of the Faculty Code

4. Section B.1 should be amended by adding the text in italics:

Section B.1 The regular faculty shall establish procedures enabling an elected standing committee or committee of the whole to submit its recommendations *to the Dean* on the allocation of regular, tenure-track appointments within that school. *Following consideration of such recommendations, the Dean shall inform the committee of his or her determination of the appropriate allocation.*

5. Section C.2.b.i.1 should be amended by adding the text in italics:

The Search Committee Composition. When a vacancy in a school's deanship arises, the full-time faculty of the school shall establish a search committee. The full-time faculty of the school has discretion to determine the composition of the search committee, subject to these requires:

- i. The search committee shall include (a) at least five and at most ten full-time faculty members elected by the full-time faculty of the school, (b) the Provost or a representative designated by the Provost, (c) One or two current students, and (d) one or two alumni. The search committee may include other members, in accordance with the procedures approved by a school's full-time faculty. The elected members of the search committee shall elect one of their group (who must hold a tenured appointment, *normally* with the rank of professor) as the chair of the search committee.
- ii. The Chair of the Board of Trustees shall appoint trustees to serve as members of the search committee, the number of which shall ordinarily be one or two.

iii. The elected faculty and appointed trustees shall be voting members. In accordance with procedures approved by a school's full-time faculty, voting rights may be extended to other members, but, except for the School of Medicine and Health Sciences and the School of Nursing, the composition of the search committee must ensure that faculty members with tenured appointments constitute at least a majority of the voting members of the search committee.

iv. Each search committee shall establish criteria for the Dean search, including a position description, and those criteria shall be approved by the school's full-time faculty and the Provost. *Each search committee and the Provost shall in a manner consistent with the procedures and rules of each school, determine the procedures to be utilized for the selection and evaluation of decanal candidates.*

6. Section D.4 should be amended by adding the text in italics and deleting the text lined out:

The College of Professional Studies shall not confer any degree (*whether at the associate's, bachelor's, or master's level*) that duplicates or utilizes the same name as a degree offered by another school *at the University*. ~~Each degree conferred by the College (whether at the associate's, bachelor's, or master's level) shall carry the designation "of Professional Studies."~~ *All transcripts relating to degrees and certificates conferred by the university to students of the College of Professional Studies shall identify the College as the unit of the University in which the student was enrolled, and all diplomas for students of the College shall contain the signature of the College's Dean.*

7. Section E.7 should be amended by adding the text in italics and deleting the text lined out:

In the absence of a timely appeal filed by either party from a decision of a Hearing Committee, or after a decision of the Dispute Resolution Committee, such decision (*including any recommendations*) shall be transmitted to the parties, to the Chair of the Executive Committee of the Faculty Senate, and to the Provost. The decision of the relevant Committee shall be deemed final and shall be implemented by the university unless the Provost determines that there are compelling reasons not to implement the relevant Committee's decision. *Should the Provost determine, prior to making a determination whether compelling reasons exist not to implement the relevant Committee's decision, that relevant information was not obtained by the Committee, the Provost shall provide that information to the Committee and request that it reconsider its decision in light of the information. The Committee shall review the information and advise the Provost whether (and, if so, how) it has changed its decision within 45 days.* ~~In~~ *Thereafter, in the event of such a determination that there are compelling reasons not to implement a final decision made by the relevant Committee, the Provost shall transmit his or her determination (including an explanation of such compelling reasons) and recommendation, and the record of the case, through the President of the university to the Board of Trustees, or, at the election of the*

~~Grievant, solely~~ to the President, with copies to the Grievant and the Chairs of the Dispute Resolution Committee and the Executive Committee of the Faculty Senate, for a ~~prompt~~ *final* decision ~~of~~ by the President *within 45 days*. ~~or the Board of Trustees.~~

Faculty Senate Committee on Professional Ethics and Academic Freedom
January 11, 2019



A RESOLUTION TO AMEND THE *FACULTY CODE* (4) (19/5)

WHEREAS, Articles IV.B and C of the *Faculty Code (Code)* should be amended to ensure that evaluative materials are not disclosed to tenure and promotion candidates while their candidacy is considered and that such material should be disclosed, after making appropriate redactions to protect the confidentiality of the reviewer(s), only in cases of a grievance filing.

WHEREAS, Article X.B of the *Code* should be amended to clarify the circumstances and grounds upon which a grievance may be filed.

WHEREAS, Section B.7 of the Procedures for the Implementation of the *Faculty Code (Code Procedures)* should be amended to allow the President to receive additional written information from candidates and from the recommending faculty units in promotion and tenure cases in which there have been non-concurrences.

WHEREAS, Part C.2.b.ii 3 of the *Code Procedures* should be amended to permit faculties of schools to designate a committee to provide advice and information to the Provost in connection with the Provost's decanal reviews.

WHEREAS, Part E.4.c.3 of the *Code Procedures* should be amended to be consistent with the confidentiality provisions of Article IV.B and IV.C.

WHEREAS, Part E.6 of the *Code Procedures* should be amended to ensure that a Hearing Committee or the Dispute Resolution Committee may not recommend the granting of tenure or promotion following the completion of a grievance proceeding.

NOW, THEREFORE,

BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY:

1. Article IV.B of the *Faculty Code* should be amended by adding the language in italics as a new paragraph 4 at the conclusion of that section:

4. Information and reviews obtained and evaluations made during the promotion process will not be made available to the candidate for promotion during the

university's consideration of that candidacy. However, following the final promotion decision, upon request, the candidate for promotion may receive internal and external evaluative reviews, appropriately redacted in a manner that preserves the confidentiality of the reviewer(s), after filing a grievance under Article X.B of the Faculty Code, as provided in Part E.4.c.3 of the Procedures for Implementation of the Faculty Code.

2. Article IV.C of the *Faculty Code* should be amended by adding the language in italics as a new paragraph 4 at the conclusion that section:

4. Information and reviews obtained and evaluations made during the tenure process will not be made available to the candidate for tenure during the university's consideration of that candidacy. However, following the final tenure decision, upon request, the candidate for tenure may receive internal and external evaluative reviews, appropriately redacted in a manner that preserves the confidentiality of the reviewer(s), after filing a grievance under Article X.B of the Faculty Code, as provided in Part E.4.c.3 of the Procedures for the Implementation of the Faculty Code.

3. Article X.B of the *Faculty Code* should be amended by adding the language in italics and deleting the lined-out language:

To maintain a grievance, the complaining party must allege that he or she has suffered a substantial injury resulting from *the violation of rights or privileges concerning academic freedom, research or other scholarly activities, tenure, promotion, reappointment, dismissal, or sabbatical or other leave*, arising from:

1. Acts of discrimination prohibited by federal or local law;
2. Failure to comply with the *Faculty Code*, ~~or Faculty Handbook~~, *the terms and conditions of the grieving party's letter of appointment or reappointment*, or other rules, regulations, and procedures established by the university;
3. Arbitrary and capricious actions on behalf of the university, or arbitrary and capricious applications of federal or local statutes and regulations; or
4. Retaliation for exercise of *Code*-protected rights.

Proposed Changes to the Procedures for the Implementation of the Faculty Code

4. Section B.7 of the *Faculty Code* should be amended by adding the language in italics and deleting the lined-out language:

The Provost's decision in such matters shall be final, subject to the remainder of this Paragraph B.7 and Paragraph B.8. Variant or nonconcurring recommendations from a School-Wide Personnel Committee or administrative officer, together with supporting reasons identified in Sections C.1 and E of Part IV of the *Faculty Code*, shall be sent to the Executive Committee of the Faculty Senate. The Executive Committee may seek information and advice and make recommendations to the

department or the appropriate unit thereof, to the School-Wide Personnel Committee, and to the appropriate administrative officers. If concurrence cannot be obtained after opportunity for reconsideration [of the faculty recommendation (whether positive or negative)]¹ in light of the recommendations of the Executive Committee, the recommendations of the School-Wide Personnel Committee and appropriate administrative officers, accompanied by the recommendation of the department, and the report of the Executive Committee shall be transmitted to the President ~~who will make a final decision, subject to Paragraph B.8.~~ *The President will invite the unit making the initial recommendation on tenure or promotion, and the faculty candidate, to provide written explanatory statements to the President. The President will thereafter make a final decision, subject to Paragraph B.8.*

5. Section C.2.b.ii.3 of the *Faculty Code* should be amended by adding the language in italics:

The process for the comprehensive review, established by the Provost, shall generally be consistent across schools, subject to the adjustment for the differing conditions of each school. *The faculty of a school may designate a committee to provide advice and information to the Provost in connection with the Provost's decanal review process.*

6. Section E.4.c.3 of the *Faculty Code* should be amended by adding the language in italics:

The procedure at the hearings shall be informal but shall comply with the requirements of fairness to the parties. The Hearing Committee is not required to comply with rules of evidence applicable in courts of law and may receive any relevant evidence that is not privileged. The Hearing Committee may decline to consider evidence when its probative value is outweighed by considerations of unfair prejudice, confusion of the issues, undue delay, waste of time, or needless presentation of cumulative evidence. The parties shall be entitled to testify on their own behalf; to call as material witnesses any member of the university faculty, administration, or staff and any other person who is willing to testify; to present written and other evidence; and to cross-examine witnesses called by other parties. *Subject to Articles IV.B and IV.C, of the Faculty Code which require appropriate redactions to internal and external evaluative reviews to protect the confidentiality of reviewer(s) in tenure and promotion cases, a party shall be entitled to inspect and copy, in advance of the hearing, all relevant documents in the control of the other party and not privileged and may offer such documents or excerpts therefrom in evidence.*

7. Section E.6 of the *Faculty Code* should be amended by adding the language in italics:

A Hearing Committee and the Dispute Resolution Committee may recommend that the university action being challenged be upheld, modified, reconsidered or remanded under specified conditions, or reversed, in whole or in part, *except that a Hearing Committee and the Dispute Resolution Committee may not recommend the granting of tenure or promotion.* A Hearing Committee and the Dispute Resolution

¹ This addition was approved by the Faculty Senate last year but awaits Board approval.

Committee may not include as part of their recommendations any monetary damages, punitive damages, or any other actions or measures outside of the scope of the underlying university action being challenged.

Faculty Senate Committee on Professional Ethics and Academic Freedom
January 11, 2019

**GWU Faculty Senate
Committee on Professional Ethics and Academic Freedom**

**Interim Report for Fall 2018
Academic Year 2018-2019**

December 2018

As new issues have arisen, our charge has evolved over time. Much of the work of PEAFF this semester has been done in subcommittees.

1. PEAFF has completed work on editing the University's Prohibited Relationships policy. Those edits were presented to the Faculty Senate and approved as Resolution 19/1.
2. PEAFF is in the process of reviewing changes to the University's Equal Employment Opportunity policy. That will be completed in the Spring, 2019.
3. A PEAFF subcommittee has completed a report on proposed changes to the University's Title IX policy. It will be reviewed by the full Committee in the Spring, 2019 semester.
4. A PEAFF subcommittee, working group, and full committee have each met numerous times to review a substantial number of changes to the Faculty Code. Some of those changes have been completed and presented to the Faculty Senate. They were approved as Resolution 19/2. A second group of changes has been approved by the Committee and has been forwarded to the Faculty Senate for approval as Resolution 19/3. The remaining proposals should be finalized in January 2019.

Once completed, the committee will ask the Faculty Senate Executive Committee to revisit our charge for the year as some of those modifications may require revisions to our future work.

Respectfully submitted,

Jeff Gutman
PEAFF Committee chair